

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2460

**FISCAL
NOTE**

BY DELEGATES ELLINGTON, SUMMERS, ROWAN,

SOBONYA, HOLLEN, ROHRBACH AND FRICH

[Introduced February 15, 2017; Referred
to the Committee on Banking and Insurance then
Health and Human Resources.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §5-16-7b; to amend said code by adding thereto a new section, designated
 3 §33-15-4o; to amend said code by adding thereto a new section, designated §33-16-3aa;
 4 to amend said code by adding thereto a new section, designated §33-24-7p; to amend
 5 said code by adding thereto a new section, designated §33-25-8m; and to amend said
 6 code by adding thereto a new section, designated §33-25A-8o, all relating to requiring
 7 insurance coverages to ensure telehealth parity.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
 2 section, designated §5-16-7b; that said code be amended by adding thereto a new section,
 3 designated §33-15-4o; that said code be amended by adding thereto a new section, designated
 4 §33-16-3aa; that said code be amended by adding thereto a new section, designated §33-24-7p;
 5 that said code be amended by adding thereto a new section, designated §33-25-8m; and that
 6 said code be amended by adding thereto a new section, designated §33-25A-8o, all to read as
 7 follows:

**CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE
 GOVERNOR, SECRETARY OF STATE AND ATTORNEY GENERAL;
 BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES,
 COMMISSIONS, OFFICES, PROGRAMS, ETC.**

ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.

§5-16-7b. Prohibition against health benefit plan excluding coverage for telehealth.

1 (a) The agency shall provide coverage for the cost of health care services provided
 2 through telemedicine services, as provided in this section.

3 (b) "Telemedicine services" means the use of electronic technology or media, including

4 interactive audio or video, for the purpose of diagnosing or treating a patient or consulting with
5 other health care providers regarding a patient's diagnosis or treatment. "Telemedicine services"
6 does not include an audio-only telephone, electronic mail message, facsimile transmission, or
7 online questionnaire.

8 (c) The coverage may not exclude a service for coverage solely because the service is
9 provided through telemedicine services and is not provided through face-to-face consultation or
10 contact between a health care provider and a patient for services appropriately provided through
11 telemedicine services.

12 (d) The coverage may not be required to reimburse the treating provider or the consulting
13 provider for technical fees or costs for the provision of telemedicine services; however, the policy
14 shall reimburse the treating provider or the consulting provider for the diagnosis, consultation, or
15 treatment of the insured delivered through telemedicine services on the same basis that the policy
16 is responsible for coverage for the provision of the same service through face-to-face consultation
17 or contact.

18 (e) The agency may use a utilization review to determine the appropriateness of
19 telemedicine services, provided that it is made in the same manner as those determinations are
20 made for the treatment of any other illness, condition, or disorder covered by a policy, contract,
21 or plan. The utilization review may not require preauthorization of emergent telemedicine services.

22 (f) The coverage may offer a health plan containing a deductible, copayment, or
23 coinsurance requirement for a health care service provided through telemedicine services,
24 provided that the deductible, copayment, or coinsurance does not exceed the deductible,
25 copayment, or coinsurance applicable if the same services were provided through face-to-face
26 diagnosis, consultation, or treatment.

27 (g) The coverage shall impose any annual or lifetime dollar maximum on coverage for
28 telemedicine services other than an annual or lifetime dollar maximum that applies in the
29 aggregate to all items and services covered under the policy, or impose upon any person receiving

30 benefits pursuant to this section any copayment, coinsurance, or deductible amounts, or any
31 policy year, calendar year, lifetime, or other durational benefit limitation or maximum for benefits
32 or services, that is not equally imposed upon all terms and services covered under the policy,
33 contract, or plan.

34 (h) This section applies to all coverage issued by this agency delivered, issued for delivery,
35 reissued, or extended in the state on and after January 1, 2018, or at any time thereafter when
36 any term of the policy, contract, or plan is changed or any premium adjustment is made.

CHAPTER 33. INSURANCE.

ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.

1 **§33-15-4o. Prohibition against health benefit plan excluding coverage for telehealth.**

2 (a) An insurance policy issued by an insurer pursuant to this article shall provide coverage
3 for the cost of a health care services provided through telemedicine services.

4 (b) "Telemedicine services" means the use of electronic technology or media, including
5 interactive audio or video, for the purpose of diagnosing or treating a patient or consulting with
6 other health care providers regarding a patient's diagnosis or treatment. "Telemedicine services"
7 does not include an audio-only telephone, electronic mail message, facsimile transmission, or
8 online questionnaire.

9 (c) An insurance policy issued by an insurer pursuant to this article may not exclude a
10 service for coverage solely because the service is provided through telemedicine services and is
11 not provided through face-to-face consultation or contact between a health care provider and a
12 patient for services appropriately provided through telemedicine services.

13 (d) An insurance policy issued by an insurer pursuant to this article may not be required
14 to reimburse the treating provider or the consulting provider for technical fees or costs for the
15 provision of telemedicine services. The policy shall reimburse the treating provider or the
16 consulting provider for the diagnosis, consultation, or treatment of the insured delivered through

17 telemedicine services on the same basis that the policy is responsible for coverage for the
18 provision of the same service through face-to-face consultation or contact.

19 (e) An insurance policy issued by an insurer pursuant to this article may from undertaking
20 utilization review determine the appropriateness of telemedicine services, if done in the same
21 manner as those determinations are made for the treatment of any other illness, condition, or
22 disorder covered by the policy, contract, or plan. The utilization review may not require
23 preauthorization of emergent telemedicine services.

24 (f) An insurance policy issued by an insurer pursuant to this article may offer a health plan
25 containing a deductible, copayment, or coinsurance requirement for a health care service
26 provided through telemedicine services, provided that the deductible, copayment, or coinsurance
27 does not exceed the deductible, copayment, or coinsurance applicable if the same services were
28 provided through face-to-face diagnosis, consultation, or treatment.

29 (g) An insurance policy issued by an insurer pursuant to this article shall impose any
30 annual or lifetime dollar maximum on coverage for telemedicine services other than an annual or
31 lifetime dollar maximum that applies in the aggregate to all items and services covered under the
32 policy, or impose upon any person receiving benefits pursuant to this section any copayment,
33 coinsurance, or deductible amounts, or any policy year, calendar year, lifetime, or other durational
34 benefit limitation or maximum for benefits or services, that is not equally imposed upon all terms
35 and services covered under the policy, contract, or plan.

36 (h) The requirements of this section shall apply to all insurance policies issued by an
37 insurer pursuant to this article delivered, issued for delivery, reissued, or extended in the state on
38 and after January 1, 2018, or at any time thereafter when any term of the policy, contract, or plan
39 is changed or any premium adjustment is made.

ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.

§33-16-3aa. Prohibition against health benefit plan excluding coverage for telehealth.

1 (a) An insurance policy issued by an insurer pursuant to this article shall provide coverage

2 for the cost of health care services provided through telemedicine services.

3 (b) "Telemedicine services" means the use of electronic technology or media, including
4 interactive audio or video, for the purpose of diagnosing or treating a patient or consulting with
5 other health care providers regarding a patient's diagnosis or treatment. "Telemedicine services"
6 does not include an audio-only telephone, electronic mail message, facsimile transmission, or
7 online questionnaire.

8 (c) An insurance policy issued by an insurer pursuant to this article shall not exclude a
9 service for coverage solely because the service is provided through telemedicine services and is
10 not provided through face-to-face consultation or contact between a health care provider and a
11 patient for services appropriately provided through telemedicine services.

12 (d) An insurance policy issued by an insurer pursuant to this article shall not be required
13 to reimburse the treating provider or the consulting provider for technical fees or costs for the
14 provision of telemedicine services; however, such policy shall reimburse the treating provider or
15 the consulting provider for the diagnosis, consultation, or treatment of the insured delivered
16 through telemedicine services on the same basis that the policy is responsible for coverage for
17 the provision of the same service through face-to-face consultation or contact.

18 (e) An insurance policy issued by an insurer pursuant to this article may undertake an
19 utilization review to determine the appropriateness of telemedicine services, provided that such
20 appropriateness is made in the same manner as those determinations are made for the treatment
21 of any other illness, condition, or disorder covered by such policy, contract, or plan. Any such
22 utilization review shall not require preauthorization of emergent telemedicine services.

23 (f) An insurance policy issued by an insurer pursuant to this article may offer a health plan
24 containing a deductible, copayment, or coinsurance requirement for a health care service
25 provided through telemedicine services, provided that the deductible, copayment, or coinsurance
26 does not exceed the deductible, copayment, or coinsurance applicable if the same services were
27 provided through face-to-face diagnosis, consultation, or treatment.

28 (g) An insurance policy issued by an insurer pursuant to this article shall impose any
 29 annual or lifetime dollar maximum on coverage for telemedicine services other than an annual or
 30 lifetime dollar maximum that applies in the aggregate to all items and services covered under the
 31 policy, or impose upon any person receiving benefits pursuant to this section any copayment,
 32 coinsurance, or deductible amounts, or any policy year, calendar year, lifetime, or other durational
 33 benefit limitation or maximum for benefits or services, that is not equally imposed upon all terms
 34 and services covered under the policy, contract, or plan.

35 (h) The requirements of this section shall apply to all insurance policies issued by an
 36 insurer pursuant to this article delivered, issued for delivery, reissued, or extended in the state on
 37 and after January 1, 2018, or at any time thereafter when any term of the policy, contract, or plan
 38 is changed or any premium adjustment is made.

ARTICLE 24. HOSPITAL SERVICE CORPORATIONS, MEDICAL SERVICE CORPORATIONS, DENTAL SERVICE CORPORATIONS AND HEALTH SERVICE CORPORATIONS.

§33-24-7p. Prohibition against health benefit plan excluding coverage for telehealth.

1 (a) A contract, plan or agreement issued by an insurer pursuant to this article shall provide
 2 coverage for the cost of such health care services provided through telemedicine services, as
 3 provided in this section.

4 (b) As used in this section, "telemedicine services," as it pertains to the delivery of health
 5 care services, means the use of electronic technology or media, including interactive audio or
 6 video, for the purpose of diagnosing or treating a patient or consulting with other health care
 7 providers regarding a patient's diagnosis or treatment. "Telemedicine services" does not include
 8 an audio-only telephone, electronic mail message, facsimile transmission, or online
 9 questionnaire.

10 (c) A contract, plan or agreement issued by an insurer pursuant to this article shall not

11 exclude a service for coverage solely because the service is provided through telemedicine
12 services and is not provided through face-to-face consultation or contact between a health care
13 provider and a patient for services appropriately provided through telemedicine services.

14 (d) A contract, plan or agreement issued by an insurer pursuant to this article shall not be
15 required to reimburse the treating provider or the consulting provider for technical fees or costs
16 for the provision of telemedicine services; however, such policy shall reimburse the treating
17 provider or the consulting provider for the diagnosis, consultation, or treatment of the insured
18 delivered through telemedicine services on the same basis that the policy is responsible for
19 coverage for the provision of the same service through face-to-face consultation or contact.

20 (e) A contract, plan or agreement issued by an insurer pursuant to this article may
21 undertake an utilization review to determine the appropriateness of telemedicine services,
22 provided that such appropriateness is made in the same manner as those determinations are
23 made for the treatment of any other illness, condition, or disorder covered by such policy, contract,
24 or plan. Any such utilization review shall not require preauthorization of emergent telemedicine
25 services.

26 (f) A contract, plan or agreement issued by an insurer pursuant to this article may offer a
27 health plan containing a deductible, copayment, or coinsurance requirement for a health care
28 service provided through telemedicine services, provided that the deductible, copayment, or
29 coinsurance does not exceed the deductible, copayment, or coinsurance applicable if the same
30 services were provided through face-to-face diagnosis, consultation, or treatment.

31 (g) A contract, plan or agreement issued by an insurer pursuant to this article shall impose
32 any annual or lifetime dollar maximum on coverage for telemedicine services other than an annual
33 or lifetime dollar maximum that applies in the aggregate to all items and services covered under
34 the policy, or impose upon any person receiving benefits pursuant to this section any copayment,
35 coinsurance, or deductible amounts, or any policy year, calendar year, lifetime, or other durational
36 benefit limitation or maximum for benefits or services, that is not equally imposed upon all terms

37 and services covered under the policy, contract, or plan.

38 (h) The requirements of this section shall apply to all insurance policies issued by an
39 insurer pursuant to this article delivered, issued for delivery, reissued, or extended in the state on
40 and after January 1, 2018, or at any time thereafter when any term of the policy, contract, or plan
41 is changed or any premium adjustment is made.

ARTICLE 25. HEALTH CARE CORPORATIONS.

§33-25-8m. Prohibition against health benefit plan excluding coverage for telehealth.

1 (a) A contract, plan or agreement issued by an insurer pursuant to this article shall provide
2 coverage for the cost of such health care services provided through telemedicine services, as
3 provided in this section.

4 (b) As used in this section, "telemedicine services," as it pertains to the delivery of health
5 care services, means the use of electronic technology or media, including interactive audio or
6 video, for the purpose of diagnosing or treating a patient or consulting with other health care
7 providers regarding a patient's diagnosis or treatment. "Telemedicine services" does not include
8 an audio-only telephone, electronic mail message, facsimile transmission, or online
9 questionnaire.

10 (c) A contract, plan or agreement issued by an insurer pursuant to this article shall not
11 exclude a service for coverage solely because the service is provided through telemedicine
12 services and is not provided through face-to-face consultation or contact between a health care
13 provider and a patient for services appropriately provided through telemedicine services.

14 (d) A contract, plan or agreement issued by an insurer pursuant to this article shall not be
15 required to reimburse the treating provider or the consulting provider for technical fees or costs
16 for the provision of telemedicine services; however, such policy shall reimburse the treating
17 provider or the consulting provider for the diagnosis, consultation, or treatment of the insured
18 delivered through telemedicine services on the same basis that the policy is responsible for
19 coverage for the provision of the same service through face-to-face consultation or contact.

20 (e) A contract, plan or agreement issued by an insurer pursuant to this article may
21 undertake an utilization review to determine the appropriateness of telemedicine services,
22 provided that such appropriateness is made in the same manner as those determinations are
23 made for the treatment of any other illness, condition, or disorder covered by such policy, contract,
24 or plan. Any such utilization review shall not require preauthorization of emergent telemedicine
25 services.

26 (f) A contract, plan or agreement issued by an insurer pursuant to this article may offer a
27 health plan containing a deductible, copayment, or coinsurance requirement for a health care
28 service provided through telemedicine services, provided that the deductible, copayment, or
29 coinsurance does not exceed the deductible, copayment, or coinsurance applicable if the same
30 services were provided through face-to-face diagnosis, consultation, or treatment.

31 (g) A contract, plan or agreement issued by an insurer pursuant to this article shall impose
32 any annual or lifetime dollar maximum on coverage for telemedicine services other than an annual
33 or lifetime dollar maximum that applies in the aggregate to all items and services covered under
34 the policy, or impose upon any person receiving benefits pursuant to this section any copayment,
35 coinsurance, or deductible amounts, or any policy year, calendar year, lifetime, or other durational
36 benefit limitation or maximum for benefits or services, that is not equally imposed upon all terms
37 and services covered under the policy, contract, or plan.

38 (h) The requirements of this section shall apply to all insurance policies issued by an
39 insurer pursuant to this article delivered, issued for delivery, reissued, or extended in the state on
40 and after January 1, 2018, or at any time thereafter when any term of the policy, contract, or plan
41 is changed or any premium adjustment is made.

ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.

§33-25A-8o. Prohibition against health benefit plan excluding coverage for telehealth.

1 (a) A contract, plan or agreement issued by an insurer pursuant to this article shall provide
2 coverage for the cost of such health care services provided through telemedicine services, as

3 provided in this section.

4 (b) As used in this section, "telemedicine services," as it pertains to the delivery of health
5 care services, means the use of electronic technology or media, including interactive audio or
6 video, for the purpose of diagnosing or treating a patient or consulting with other health care
7 providers regarding a patient's diagnosis or treatment. "Telemedicine services" does not include
8 an audio-only telephone, electronic mail message, facsimile transmission, or online
9 questionnaire.

10 (c) A contract, plan or agreement issued by an insurer pursuant to this article shall not
11 exclude a service for coverage solely because the service is provided through telemedicine
12 services and is not provided through face-to-face consultation or contact between a health care
13 provider and a patient for services appropriately provided through telemedicine services.

14 (d) A contract, plan or agreement issued by an insurer pursuant to this article shall not be
15 required to reimburse the treating provider or the consulting provider for technical fees or costs
16 for the provision of telemedicine services; however, such policy shall reimburse the treating
17 provider or the consulting provider for the diagnosis, consultation, or treatment of the insured
18 delivered through telemedicine services on the same basis that the policy is responsible for
19 coverage for the provision of the same service through face-to-face consultation or contact.

20 (e) A contract, plan or agreement issued by an insurer pursuant to this article may
21 undertake an utilization review to determine the appropriateness of telemedicine services,
22 provided that such appropriateness is made in the same manner as those determinations are
23 made for the treatment of any other illness, condition, or disorder covered by such policy, contract,
24 or plan. Any such utilization review shall not require preauthorization of emergent telemedicine
25 services.

26 (f) A contract, plan or agreement issued by an insurer pursuant to this article may offer a
27 health plan containing a deductible, copayment, or coinsurance requirement for a health care
28 service provided through telemedicine services, provided that the deductible, copayment, or

29 coinsurance does not exceed the deductible, copayment, or coinsurance applicable if the same
30 services were provided through face-to-face diagnosis, consultation, or treatment.

31 (g) A contract, plan or agreement issued by an insurer pursuant to this article shall impose
32 any annual or lifetime dollar maximum on coverage for telemedicine services other than an annual
33 or lifetime dollar maximum that applies in the aggregate to all items and services covered under
34 the policy, or impose upon any person receiving benefits pursuant to this section any copayment,
35 coinsurance, or deductible amounts, or any policy year, calendar year, lifetime, or other durational
36 benefit limitation or maximum for benefits or services, that is not equally imposed upon all terms
37 and services covered under the policy, contract, or plan.

38 (h) The requirements of this section shall apply to all insurance policies issued by an
39 insurer pursuant to this article delivered, issued for delivery, reissued, or extended in the state on
40 and after January 1, 2018, or at any time thereafter when any term of the policy, contract, or plan
41 is changed or any premium adjustment is made.

NOTE: The purpose of this bill is to require equal treatment of telehealth services by certain insurance policies.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.